

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL E. BURTON,

Petitioner,

vs.

FIGUEROA, Warden,

Respondent.

No. C 09-5025 WHA (PR)

**ORDER OF DISMISSAL;  
GRANTING IN FORMA PAUPERIS  
APPLICATION**

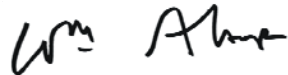
**(Docket No. 2)**

Petitioner, a California state prisoner proceeding, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. He has previously filed a habeas petition challenging the same 2000 conviction and sentence he challenged in a prior federal petition, *Burton v. Knowles*, No. C 05-5059 WHA (PR). A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly **DISMISSED** without prejudice to refiling if petitioner obtains the necessary order. The in forma pauperis application (docket number 2) is **GRANTED**.

The clerk shall close the file.

**IT IS SO ORDERED.**

Dated: November 30, 2009.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE